

BEFORE THE BOARD OF BARBER EXAMINERS

STATE OF IDAHO

In the Matter of the Licenses of:)	
)	Case Nos. BAR-2010-1
MAIN EVENT BARBER SHOP)	BAR-2010-9
License No. BS-237199)	
SCOTT D. MACIAS, Owner,)	STIPULATION AND
License No. B-229749,)	CONSENT ORDER
)	
Respondents.)	
)	

WHEREAS, information has been received by the Idaho State Board of Barber Examiners (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Main Event Barber Shop and Scott D. Macias, Owner ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A. Stipulated Facts and Law

A.1. The Board regulates the practice of barbering and operation of barbershops in the State of Idaho in accordance with title 54, chapter 5, Idaho Code.

A.2. Respondent Scott D. Macias is a licensee of the Board and holds License No. B-229749 to practice barbering and License No. BS-237199 to operate a barbershop in the State of Idaho. Respondent's licenses are subject to the provisions of title 54, chapter 5, Idaho Code and the Board's rules at IDAPA 24.02.01, *et seq.*

A.3. On or about September 17, 2009, Respondent admitted to an investigator from the Bureau of Occupational Licenses that he allowed his brother, an unlicensed

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person, to practice barbering at the Main Event Barber Shop, located in Nampa, Idaho. Respondent stated he was helping his brother get practice cutting hair.

A.4. During the investigation on or about September 17, 2009, the investigator observed Respondent cutting a person's hair at the Main Event Barber Shop. Respondent's personal license had expired on August 8, 2009. Respondent admitted to knowing his license was expired.

A.5. Respondent renewed his personal license on September 18, 2009.

A.6. The allegations of Paragraphs A.3 through A.5, if proven, would violate the laws and rules governing the practice of barbering, specifically Idaho Code §§ 54-501 (unlawful to practice without a license), 54-516(7) (commission of any offense described in section 54-519, Idaho Code), 54-516(8) (violation of any provision of this chapter or rule adopted pursuant thereto) and 54-519(2) (permitting any person in one's employ, supervision or control to practice as a barber, barber-stylist or barber instructor unless that person has complied with the provisions of this chapter). Violations of these laws and rules constitute grounds for disciplinary action against Respondent's license to practice barbering and operate a barbershop in the State of Idaho.

B. Waiver of Procedural Rights

I, Scott D. Macias, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and admit the allegations pending before the Board, as stated in Section A, Paragraphs A.3 through A.5. I further understand that these allegations constitute cause for disciplinary action upon my license to practice barbering and operate a barber shop in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of barbering and

the operation of barbershops in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

C. Stipulated Discipline

C.1. License Nos. B-229749 and BS-237199 issued to Respondent shall be suspended for thirty (30) days with all thirty (30) days of the suspension STAYED, provided Respondent complies with the terms and condition of this Stipulation and Consent Order.

C.2. Respondent shall pay to the Board an administrative fine in the amount of Six Hundred Fifty Dollars (\$650.00) within one hundred eighty (180) days of the entry of the Board's Order.

C.3. Respondent shall pay investigative costs and attorney fees in the amount of Four Hundred Fifty Dollars (\$450.00) within one hundred eighty (180) days of the entry of the Board's Order.

C.4. License Nos. B-229749 and BS-237199 issued to Respondent shall be placed on probation for a period of one (1) year from the date of entry of the Board's Order. The conditions of probation are as follows:

a. Respondent shall pay the administrative fine and investigative costs and attorney fees provided in Paragraphs C.2 and C.3.

b. Respondent shall comply with all state, federal and local laws, rules and regulations governing the practice of barbering and operation of barbershops in the State of Idaho.

c. Respondent shall inform the Board in writing of any change of place of practice or place of business within 15 days of such change.

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d. If Respondent leaves Idaho for three (3) continuous months, or resides or practices outside of the state, Respondent must notify the Board in writing of the dates of departure, address of intended residence or place of business, and whether Respondent intends to return. Periods of time spent outside Idaho will not apply to satisfy this probationary period or excuse compliance with the terms of this Stipulation.

e. Respondent shall fully cooperate with the Board and its agents, and shall make all relevant files, records, correspondence or other documents available immediately upon the demand of any member of the Board and its agents.

C.5. If Respondent fails to comply with the terms and/or conditions set forth in Paragraphs C.2 through C.4 above, the Board may order that Respondent's licenses be suspended pursuant to Paragraph C.1 or until Respondent has come into compliance with the terms and/or conditions of this Stipulation and Consent Order. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation and Consent Order. Any action taken by the Board to enforce compliance with this Stipulation and Consent Order shall be in accordance with Section E. The Board may also require Respondent to pay any additional costs and attorney fees incurred by the Board to enforce this Stipulation and Consent Order.

C.6. At the conclusion of the one-year probationary period and provided Respondent has complied with all other terms of this Stipulation, Respondent may request from the Board termination of the conditions of probation. Any request for termination of probation must be accompanied by written proof of compliance with the terms of this Stipulation.

C.7. All costs associated with compliance with the terms of this Stipulation are the sole responsibility of Respondent.

D. Presentation of Stipulation to Board

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

E. Violation of Stipulation and Consent Order

E.1. The Board has authority to enforce compliance with the terms and conditions of this Stipulation and Consent Order. By signing this Stipulation and Consent Order, Respondent waives his right or ability to challenge the Board's lack of authority to enforce compliance on appeal to the district court.

E.2. If there is reason to believe Respondent has violated any of the terms and/or conditions of this Stipulation and Consent Order any proceeding to enforce compliance with this Stipulation and Consent Order and impose additional discipline will be pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall file a Motion to Enforce setting forth the allegations of non-compliance. The Motion to Enforce will include notice to Respondent for the opportunity to request a hearing regarding the allegations of non-compliance with the terms and/or conditions of this

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Stipulation and Consent Order. If Respondent fails to request a hearing pursuant to the Motion to Enforce, any allegations of non-compliance will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

E.3. If Respondent is found to have violated the terms and/or conditions of this Stipulation and Consent Order, or failed to request a hearing, the Board may impose additional discipline as set forth in Section C above. Any additional costs and attorney fees incurred by the Board in such enforcement action shall be the responsibility of Respondent.

E.4. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.5. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

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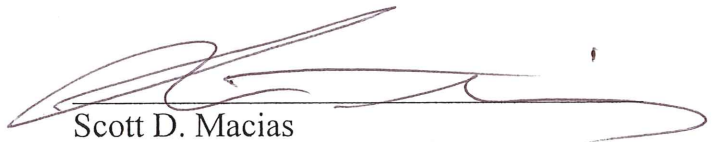
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I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

DATED this 19 day of April, 2010.


Scott D. Macias
Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 26th day of April, 2010.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Karin Magnelli
Karin Magnelli
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-521, the foregoing is adopted as the decision of the Board of Barber Examiners in this matter and shall be effective on the 12 day of July, 2010. IT IS SO ORDERED.

IDAHO STATE BOARD
OF BARBER EXAMINERS

By Kevin J. Moriarty
Kevin J. Moriarty, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of July, 2010, I caused to be served a true and correct copy of the foregoing by the following method to:

Scott D. Macias
Main Event Barber Shop
2924 Citrus Street
Caldwell, ID 83605

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____

Karin Magnelli
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Facsimile: _____
- ☒ Statehouse Mail

Tana Cory
Tana Cory, Chief
Bureau of Occupational Licenses